



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 16, 2013

Ms. P. Armstrong  
Assistant City Attorney  
Criminal Law and Police Section  
City of Dallas  
1400 South Lamar  
Dallas, Texas 75215

OR2013-21859

Dear Ms. Armstrong:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 508470 (DPD ORR No. 2013-11413).

The Dallas Police Department (the "department") received a request for all internal affairs and police records pertaining to a named police officer being put on administrative leave for a specified offense. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.102, 552.108, 552.117, 552.130 and 552.136 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup>

Initially, we note some of the submitted information is not responsive to the instant request because it was created after the date the request was received. This ruling does not address the public availability of non-responsive information, and the department is not required to

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<sup>1</sup>Although you do not raise section 552.130 of the Government Code in your brief, we understand you to claim this section based on your markings in the submitted information.

<sup>2</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

release non-responsive information in response to this request.<sup>3</sup> However, we note the submitted information includes incident report number 1048381-D and this report is separately responsive to the present request. Accordingly, we will consider your arguments for incident report number 1048381-D.

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). In this instance, you assert the responsive information pertains to an ongoing criminal investigation and prosecution. Based on your representation, we conclude the release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, we agree that section 552.108(a)(1) is applicable to the responsive information.

However, section 552.108 does not except from disclosure basic information about a crime. Gov’t Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. 531 S.W.2d at 186–87. Thus, with the exception of basic information, the department may withhold the responsive information under section 552.108(a)(1) of the Government Code.<sup>4</sup>

We note some of the basic information at issue may be subject to section 552.1175 of the Government Code.<sup>5</sup> Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. *See* Gov’t Code § 552.1175(b). We note the basic information includes the location of the crime and age of the arrestee. However, the basic information does not include the arrestee’s date of birth. *See* Open Records Decision No. 127 (1976). We have marked information within the basic information that pertains to the named

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<sup>3</sup>As our determination that this information is not responsive to the request is dispositive, we need not address your arguments against disclosure of this information.

<sup>4</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

<sup>5</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

police officer. This information is held in a law enforcement capacity and may be subject to section 552.1175. Accordingly, if the officer whose information we have marked elects to restrict access to the information pertaining to him in accordance with section 552.1175(b), the department must withhold the marked information under section 552.1175 of the Government Code. If the officer does not elect to restrict access to the information pertaining to him in accordance with section 552.1175(b), the department may not withhold the information at issue under section 552.1175 of the Government Code.

In summary, with the exception of basic information, the department may withhold the responsive information under section 552.108(a)(1) of the Government Code. In releasing basic information from the responsive information, the department must withhold the information we have marked under section 552.1175 of the Government Code, if the officer whose information is at issue elects to restrict access to the information in accordance with section 552.1175(b) of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Britni Fabian  
Assistant Attorney General  
Open Records Division

BF/tch

Ref: ID# 508470

Enc. Submitted documents

c: Requestor  
(w/o enclosures)